

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

W.P. No. 1113 of 2002 (S/B)

Deepak Bhatt Petitioner

Versus

State of Uttaranchal & others Respondents

Mr. Dinesh Gahatori, learned counsel for the petitioner.

Mr. J.P. Joshi, learned Standing Counsel for the State.

Hon'ble P.C. Verma, A.C.J.

This writ petition has been filed by the petitioner seeking a writ of mandamus to command the respondents to give appointment to the petitioner under dying in harness rules.

The father of the petitioner died on 23.1.1985 during his service. At the time of death, the father of the petitioner was working on the post of Senior Clerk in the Department of Agriculture and Soil Conservation. After the death of the father of the petitioner, the mother of the petitioner wrote a letter to the District Agriculture Officer, Almora on 12.03.1985 stating that at present her sons are minor and when they will attain the age of majority, one of them may be given appointment under Dying in Harness Rules, 1974. Thereafter, having attained the age of majority, the elder brother of the petitioner had moved an application before the Commissioner, Kumaon Mandal Nainital for his appointment under Dying in Harness Rules on 14.02.1996. Accordingly, appointment letter was issued to the elder brother of the petitioner by Pariyojana Adhikari, Almora for Class IV post in the department. But in spite of the appointment letter issued, the department did not allow the brother of the petitioner to join. On 6.1.2000, unfortunately the elder brother of the petitioner also died due to brain haemorrhage. Thereafter, an application was moved for appointment of the sister of the petitioner, but she was not appointed and in the meantime, she got married. Now, the petitioner, after becoming eligible has moved the application for appointment under the Dying in Harness Rules, which is after 17 years. The application of the petitioner has been rejected on the ground that it is highly belated. The matter of the petitioner should have been referred to the State Government for grant of relaxation considering the valid

reason for delay under the proviso of Rule 5 of the Rules known as Appointment under Dying in Harness Rules, 1974.

Therefore, this writ petition is disposed of with a direction to the respondents that the matter shall be referred by the Appointing Authority to the State Government for grant of relaxation under the proviso of Rule 5 of the Rules and if the relaxation is granted by the State Government, the case of the petitioner shall be reconsidered for appointment.

(P.C. Verma, A.C.J.)

Dt. 10.06.2004

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